

tution does not use the words "shall have" in each instance. It says "shall enjoy", and then goes on to provide not the mandatory form but just "to have".

I just wanted to make sure that the language here is the same construction as the courts have given to date.

DELEGATE J. CLARK (presiding): Delegate Bothe.

DELEGATE BOTHE: I am glad you asked the question, because I think that the record should be clear that we have no intention, although we have modernized the language and changed the order, of altering the state of the law by so doing.

DELEGATE J. CLARK (presiding): Delegate Weidemeyer.

DELEGATE WEIDEMEYER: Mr. Chairman, is it not true that our Committee in all of these areas suggested by Delegate Hargrove meant that they shall have the right to be informed of the nature and cause of the accusation in time to prepare defense; they shall have the right to assistance of counsel, and of course that right can be waived, and we recognize that.

Also, they shall have the right to have compulsory process for obtaining witnesses, whether they take advantage of it or not, and they shall have the right to have a speedy and public trial by an impartial jury of twelve without whose unanimous consent he shall not be adjudged guilty.

The Committee did not mean that they must have to have them whether they want them or not, but they shall have the right to have all of these things, and of course in all of the cases it is up to the accused himself whether or not he wants to waive it.

Mr. Chairman, I have tried to state what I thought was the Committee's intent, and would ask the Chairman if he does not agree with that.

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: Again I thank you very much, Delegate Weidemeyer. I think that is correct, subject to the view of my criminal law experts.

DELEGATE J. CLARK (presiding): Delegate Willoner.

DELEGATE WILLONER: Just to restate a little bit what Mr. Weidemeyer said, the right to confrontation has been held to be one of those rights that you cannot waive in Maryland, and the intent

here is not to change the present Maryland law or the federal law as it applies to Maryland.

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: Thank you. You have now heard from my criminal law counsel en banc.

DELEGATE J. CLARK (presiding): Are there any further questions on this section? Delegate Carson.

DELEGATE CARSON: Chairman Kiefer, your language with regard to having a jury trial speaks in absolute terms, as does Article 6 of the federal Constitution, but I believe, if I am not incorrect, that the Supreme Court has held that in the area of minor misdemeanors, including but not perhaps limited to those for which only a fine would be available, a jury trial is not required.

Do you have any intention whatsoever of changing those federal cases and making our law more restrictive?

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: In the first place, the federal courts have held that the restrictions with respect to criminal law juries and civil law juries are not applicable to state action, so what we do is not subject at the moment to interpretation by the Supreme Court.

They have not extended those two areas to state action.

Now, we have not changed in any way in this article the rights of the accused to have a jury trial with the unanimous verdict of twelve persons.

It does not, however, prevent a person from waiving a jury trial if he so wants. We are not changing the law at all.

DELEGATE J. CLARK (presiding): Delegate Carson.

DELEGATE CARSON: Let me be more specific.

If the Supreme Court holds, as I believe it has held, that in the case of a relatively minor misdemeanor it is not necessary under the federal Constitution to have a jury trial, would this language mandate in a minor traffic offense that a jury trial be held in this case?

DELEGATE J. CLARK (presiding): Delegate Kiefer.